

Ballot Issue Committee Guidance

This guidance is issued in response to questions regarding the application of Hawaii's campaign finance laws in the 2006 election to a ballot issue committee.

I. Definition of a ballot issue committee

"Ballot issue committee" means a committee¹ as defined in this section which has the exclusive purpose of making or accepting contributions or expenditures for or against any issue appearing on the ballot at the next applicable election.² (Emphasis added)

II. Registration; reporting and other requirements

A ballot issue committee must file an organizational report to register with the Commission as a noncandidate committee³ if the following requirements are met:

- The appropriate government agency (e.g., Honolulu City Clerk's Office) certifies the issue will appear on the ballot at the next applicable election; and
- The committee receives contributions or makes expenditures that amount to more than \$1,000, in the aggregate, in a two-year election period.⁴

The organizational report must be filed within ten days of receiving contributions or making expenditures that exceed this \$1,000 "floor."

Moreover, the ballot issue committee must comply with reporting and other requirements of the law applicable to a noncandidate committee, including the following:

- Appointing a chairperson;⁵

¹ "Committee" means:

(1) Any organization, association, or individual that accepts or makes a contribution or makes an expenditure for or against any:

(A) Candidate;

(B) Individual who files for nomination at a later date and becomes a candidate; or

(C) Party;

with or without the authorization of the candidate, individual, or party. In addition, the term "committee" means any organization, association, or individual who accepts or makes a contribution or makes an expenditure for or against any question or issue appearing on the ballot at the next applicable election; or

(2) Any organization, association, or individual that raises or hold money or anything of value for a political purpose, with or without the consent or knowledge of any:

(A) Candidate;

(B) Individual who files for nomination at a later date and becomes a candidate; or

(C) Party; and

subsequently contributes money or anything of value to, or makes expenditures on behalf of, the candidate, individual, or party. Notwithstanding any of the foregoing, the term "committee" shall not include any individual making a contribution or expenditure of the individual's own funds or anything of value that the individual originally acquired for the individual's own use and not for the purpose of evading any provision of this subpart, or any organization, which raises or expends funds for the sole purpose of the production and dissemination of informational or educational advertising. Hawaii Revised Statutes (HRS) §11-191.

² HRS §11-191

³ "Noncandidate committee" means a committee as defined in this section that has the purpose of making contributions or expenditures to influence the nomination for election, the election of any candidate to political office, or for or against any issue on the ballot, but does not include a candidate's committee.

⁴ HRS §11-194(e)

⁵ HRS §11-196.5(a)(7)

- Appointing a treasurer;⁶
- Not accepting or making any loans;⁷
- Filing preliminary, final, and supplemental reports with the Commission which disclose information regarding contributions and expenditures;⁸ and
- Retaining complete records for at least five years.⁹ The “[r]ecords shall include vouchers, worksheets, and receipts which shall provide in sufficient detail the necessary information and data, from which the reports and statements may be verified, explained, or clarified, and checked for accuracy and completeness.”¹⁰

The following reports are due for the 2006 election period:

Report	Reporting Period	Reporting Date
Preliminary Primary	January 1-September 8, 2006	September 13, 2006
Late Contributions (Primary)	September 8-September 19, 2006	September 20, 2006
	(The “Late Contributions Report” (Form NC-4) is for reporting contributions received from any person or entity that aggregates more than \$500 and for reporting contributions made to candidates that aggregates more than \$500 during the period of fifteen calendar days through four calendar days prior to the Primary Election. Late Contributions must also be reported on the Final Primary Report. The report is not required if there are no Late Contributions. Note: This is one form that may be faxed.)	
Final Primary	September 9-23, 2006	October 13, 2006
Preliminary General	September 24-October 23, 2006	October 27, 2006
Late Contributions (General)	October 23-November 3, 2006	November 3, 2006
	(The “Late Contributions Report” (Form NC-4) is for reporting contributions received from any person or entity that aggregates more than \$500 and for reporting contributions made to candidates that aggregates more than \$500 during the period of fifteen calendar days through four calendar days prior to the General Election. Late Contributions must also be reported on the Final Election Period Report. The report is not required if there are no Late Contributions. Note: This is one form that may be faxed.)	
Final Election Period	October 24-November 7, 2006	December 7, 2006

Additional information is available in the Commission’s 2006 Guidebook For Noncandidate Committees.

III. Contributions to a ballot issue committee

Persons contributing to a ballot issue committee are **not** subject to the contribution limits in section 11-204, Hawaii Revised Statutes (HRS)¹¹ (no \$1,000 cap per person per election on contributions to the ballot issue committee).

⁶ HRS §11-198

⁷ HRS §11-205.6

⁸ HRS §11-

⁹ Section 2-14.1-6, Hawaii Administrative Rules (HAR)

¹⁰ Id.

¹¹ HRS §11-204(k)

A candidate, generally, may not contribute campaign funds to a ballot issue committee. While a candidate is allowed to contribute campaign funds to eligible community and educational groups, the eligible groups do not include “organizations established temporarily to advocate or promote political or ballot issues”¹² unless the ballot issue involves a “question, or issue with which...(the candidate)...is directly associated.”¹³

IV. Advertisement by a ballot issue committee

An “advertisement”¹⁴ by a ballot issue committee must contain the name and address of the committee paying for the advertisement.¹⁵

V. After the election

After the election, the ballot committee may remain open or terminate, subject to the requirements of the law.¹⁶

To terminate, a ballot issue committee shall:

- Cease receiving contributions or making expenditures;
- Expend all funds (no surplus);
- Pay all expenditures (no deficit);
- Pay all outstanding penalties;
- File all required reports with the Commission; and
- Obtain approval by the Commission to terminate.

The “Request for Registration Termination” form should be filed with the Commission for approval to terminate the committee’s registration.

¹² Section 2-14.1-14(b)(2), HAR.

¹³ HRS §11-200(a)(1)(B)

¹⁴ "Advertisement" means:

(1) Any communication, exclusive of bumper stickers or other sundry items, that:

(A) Identifies a candidate either directly or by direct implication;

(B) Advocates or supports the nomination for election of the candidate;

(C) Advocates or supports the election of the candidate; or

(D) Advocates or supports the candidate's defeat.

(2) Any communication, exclusive of bumper stickers or other sundry items, that:

(A) Identifies an issue or question that will appear on the ballot at the next applicable election; or

(B) Advocates or supports the passage or defeat of the question or issue. HRS §11-191.

¹⁵ HRS §11-215

¹⁶ HRS §11-213